

## INSTRUCTIONS FOR COMPLIANCE REPORT OF EXAMINATION

### OVERVIEW

The procedures that follow provide instructions for the preparation of the Compliance Report of Examination.

### In This Section

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### REQUIREMENT FOR FULL REPORT

The Report of Examination (ROE) consists of the following **mandatory** pages:

- Cover
- Examiner's Comments and Conclusions (Page 1)
- Significant Violations (Page 2)
- Supervisory Page A

If an assessment of the institution's performance under the Community Reinvestment Act is completed, a CRA Performance Evaluation is to be prepared.

**REQUIREMENT  
FOR FULL  
REPORT  
(cont'd)**

Other pages, to be included as applicable, are:

- Compliance with Enforcement Actions (Page 1.a.x)
- Other Violations Page (Page 3)
- Community Reinvestment Act (Page 4)
- Truth in Lending Reimbursement Schedules (Page 2.a.x)

A full ROE must be prepared for institutions:

- With composite compliance ratings of "3", "4", or "5" at the current or previous examination
- With reimbursable violations of the Truth in Lending Act at the current examination, regardless of the institution's composite compliance ratings
- With violations of the Equal Credit Opportunity Act (ECOA) and Fair Housing Act (FHA) or their implementing regulations involving illegal discrimination or discouragement at the current examination, regardless of composite ratings, or
- Whenever the use of the full ROE format is necessary to provide a more detailed explanation of the examination findings, regardless of the type of violations or the rating of the institution

*NOTE: The streamlined Summary Compliance Report of Examination ("Summary Report") should be used for institutions that have consistently maintained a satisfactory or better compliance posture. Refer to the Summary Report Instructions and the Instructions for Compliance Summary Report sections of this manual. Use the full Compliance Report of Examination whenever required or otherwise necessary.*

**REPORT OF  
EXAMINATION  
COVER**

Complete the Examination Cover
<p>1. Provide the following information at the applicable prompts in the automated ROE:</p> <ul style="list-style-type: none"> <li>• Name of financial institution  Use full name. For example: "The First Bank and Trust Company" as opposed to "First Bank."</li> <li>• City/Town, County, State</li> </ul>

**REPORT OF  
EXAMINATION  
COVER (cont'd)**

- FDIC Region
- Certificate number of the financial institution
- Name of the Examiner-in-Charge (EIC)
- Examination Date

Date the examination staff enters the institution to begin the on-site portion of the compliance examination. Referred to on Data Entry Form as the Start Date.

**EXAMINER'S  
COMMENTS  
AND  
CONCLUSIONS****General  
Instructions**

The purpose of the Examiner's Comments and Conclusions page is to identify and explain any compliance problems existing in the institution. Comments on the Examiner's Comments and Conclusions page should:

- Be clear and concise
- Discuss items in order of importance
- State the facts
- Support the examiner's conclusion(s)
- Address the quality of board and management oversight

*NOTE: Where appropriate, discuss the strength of management/board oversight, as evidenced by the success of the financial institution's compliance program. If deficiencies exist, identify them so that management and the board may take appropriate corrective action.*

**Use of  
Subheadings**

Write the comments in the Examiner's Comments and Conclusions page under a series of sub-headings to:

- Emphasize important issues
- Provide structure and organization

**EXAMINER'S  
COMMENTS  
AND  
CONCLUSIONS  
(cont'd)**

**Use of  
Subheadings  
(cont'd)**

<b>Prepare Examiner's Comments and Conclusions (Page 1)</b>	
<b>Mandatory Sub-Headings</b>	
Include in every Examiner's Comments and Conclusions page the following sub-headings, as applicable.	
<b>SCOPE OF EXAMINATION</b>	
1.	<p>Under this caption, provide:</p> <ul style="list-style-type: none"> <li>• The date of the examination</li> <li>• Branch offices visited</li> <li>• Comments relative to the use of any expanded examination procedures, if applicable</li> </ul> <p><b>Example:</b> Indicate whether a specific regulatory area or activity was subject to special scrutiny.</p>
<b>CONSUMER COMPLIANCE RATING and COMMUNITY REINVESTMENT ACT RATING</b>	
<p><i>NOTE: Subheadings must be used for <u>each</u> composite rating assigned during an examination.</i></p> <p>2. Disclose composite compliance and CRA ratings under the appropriate sub-heading.</p>	
<b>BOARD RESOLUTION</b> <b>MEMORANDUM OF UNDERSTANDING</b> <b>CEASE AND DESIST ORDER</b> <b>OTHER SUPERVISORY ENFORCEMENT ACTION</b>	
<p><i>NOTE: An applicable subheading (Board Resolution, Memorandum of Understanding, or Cease and Desist Order) may be used along with the subheading Other Supervisory Enforcement Action as needed.</i></p> <p>3. Under the applicable sub-heading (Board Resolution, Memorandum of Understanding, etc.), provide:</p> <ul style="list-style-type: none"> <li>• A summary of the financial institution's compliance with any outstanding formal or informal enforcement actions since the institution's previous compliance examination</li> </ul>	

**EXAMINER'S  
COMMENTS  
AND  
CONCLUSIONS  
(cont'd)**

**Use of  
Subheadings  
(cont'd)**

- A reference to the "Compliance with Enforcement Action" report page(s) for a detailed discussion of the financial institution's compliance with each provision of the applicable enforcement action

**SUMMARY OF VIOLATIONS  
SIGNIFICANT EXAMINATION FINDINGS**

*NOTE: Use either of the subheadings, or both, if applicable.*

4. Provide a summary of the violations detailed on the Significant Violations page(s). The Significant Violations report pages will include those violations that are:

- Recurrent
- System-wide
- Willful
- Otherwise serious, such as
  - Reimbursable violations of the Truth in Lending Act or Regulation Z, the Truth in Lending Act's implementing regulation (see Special Rule below)
  - Violations of the anti-discriminatory provisions of the ECOA or the FHA

Discuss the general nature and magnitude of the violations cited rather than each regulatory section violated. Refer the reader to the specific page(s) in the ROE for further details on the significant violations.

***NOTE: Special Rule for Reimbursable Truth in Lending Violations***

- State total reimbursable amount on the Page 1, Examiner's Comments and Conclusion page, when reliable estimates have been determined

OR

- When reliable estimates of the total reimbursable amount are not available, state so on the Page 1 and provide an estimate based upon the examiner's calculations. Also, provide the assumptions on which the estimate is based

In either case, provide comments on management's willingness to make reimbursement.

**EXAMINER'S  
COMMENTS  
AND  
CONCLUSIONS  
(cont'd)**

**Use of  
Subheadings  
(cont'd)**

**COMMUNITY REINVESTMENT**

5. Under this subheading, comment on the financial institution's Community Reinvestment Act (CRA) performance.

- If the financial institution is rated either "Needs to Improve" or "Substantial Noncompliance" for CRA, focus on the primary reasons for the less than satisfactory rating
- If the financial institution is rated "Satisfactory" or "Outstanding" for CRA, the comments should be generally positive in nature; however, the examiner should include recommendations for improving CRA performance where appropriate or necessary

The comments should also refer the reader to the CRA Performance Evaluation and, if applicable, the optional "Community Reinvestment" report page(s) for further details.

**MEETING WITH MANAGEMENT**

6. Under this subheading, provide:

- Date of meeting
  - Names and titles of financial institution attendees
  - Names and titles of individuals representing the FDIC and state regulatory authority
  - A discussion of management's response to the examination findings
- Specifically address management's response to the recommended composite ratings and any proposed enforcement action(s).
- A discussion of any action taken or promised by management to assure compliance and correct deficiencies

Identify time frames for promised action.

**MEETING WITH THE BOARD OF DIRECTORS/TRUSTEES**

7. If a meeting is held with the board of directors/trustees, provide the following:

- Date of the meeting
- Names and titles of directors/trustees in attendance

**EXAMINER'S  
COMMENTS  
AND  
CONCLUSIONS  
(cont'd)**

**Use of  
Subheadings  
(cont'd)**

<ul style="list-style-type: none"> <li>Names and titles of persons in attendance at the request of the institution's directors/trustees</li> <li>Names and titles of individuals representing the FDIC and state regulatory authority</li> </ul>
<p>8. Discuss board's response to recommended composite ratings and proposed informal or formal enforcement actions. Include, as applicable:</p> <ul style="list-style-type: none"> <li>Any corrective actions promised by the board. (Identify by name the board member(s) who made commitment(s))</li> <li>Any indications on the part of the board that they would stipulate to a proposed enforcement action (both formal and informal)</li> </ul> <p>As above, identify by name the board member(s) who indicated their willingness to stipulate to the enforcement action.</p>
<p><b>Optional Sub-Headings</b></p>
<p>9. Below are topical sub-headings that are not mandatory, but should be used whenever appropriate to provide further details on examination findings.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>Compliance Management</li> <li>Lack of Supervision by Directors/Trustees</li> <li>Insufficient Management Involvement</li> <li>Failure to Appoint a Compliance Officer</li> <li>Insufficient Training</li> <li>Lack of an Adequate Compliance Program</li> <li>Inadequate Internal Procedures and Controls</li> <li>Inadequate Audit Program</li> <li>Fair Lending</li> </ul>
<p>10. Depending upon the circumstances, use sub-headings that describe principal findings, such as:</p> <ul style="list-style-type: none"> <li>Lending Discrimination</li> <li>Patterns or Practices of Reimbursable Violations</li> <li>Underpayment to Deposit Customers</li> <li>Repeat Violations</li> </ul>

**EXAMINER'S  
COMMENTS  
AND  
CONCLUSIONS  
(cont'd)**

**Use of  
Subheadings  
(cont'd)**

11. Discuss under each subheading the apparent deficiencies in the institution's policies, procedures, and practices that illustrate and support the examiner's conclusions or that caused or contributed to such findings.

- Refer the reader to other report pages that support the findings
- Recommend corrective actions
- Note any efforts by management to address or correct identified deficiencies

**Page Numbering**

The Examiner's Comments and Conclusions page(s) are numbered 1.1, 1.2, etc.

**COMPLIANCE  
WITH  
ENFORCEMENT  
ACTIONS**

**General  
Instructions**

Use this page in the ROE **only if** the financial institution is subject to an outstanding formal or informal compliance enforcement action, such as a:

- Board Resolution
- Memorandum of Understanding
- Cease and Desist Order
- Other supervisory enforcement action relating to compliance

**Example of Other Supervisory Enforcement Action**

The removal of an officer pursuant to Section 8(e) of the Federal Deposit Insurance Act for misappropriating Truth in Lending reimbursement checks.

**Prepare Compliance with Enforcement Action (Page 1.a)**

**General Instructions**

1. If the institution is subject to an outstanding formal or informal compliance enforcement action, provide the following:
  - The type of enforcement action



**COMPLIANCE  
WITH  
ENFORCEMENT  
ACTIONS (cont'd)**

**General  
Instructions  
(cont'd)**

- The date the enforcement action was issued, or in the case of a Board Resolution, when adopted
- A list of each specific provision, and a discussion of the financial institution's compliance with each

*NOTE: If a visitation was conducted between examinations, and a Visitation Report was forwarded to the financial institution detailing compliance with the provisions of the enforcement action, the examiner need only address the remaining outstanding provisions of the enforcement action in the Report of Examination. The examiner should also refer to the Visitation Report.*

- A recommendation of whether the enforcement action should be continued, removed, or changed to another type of enforcement action

**Page Numbering**

The Compliance with Enforcement Action pages are numbered 1.a.1, 1.a.2, etc.

**VIOLATION  
WRITE-UPS**

**General  
Procedures**

Violation descriptions are an essential compliance examination assessment tool. Information relative to each violation is entered into the Compliance Statistical System (CSS), DCA's data base. Through the use of this system, DCA can produce individual financial institution compliance profiles and also monitor the compliance of all state nonmember institutions with specific consumer protection and civil rights laws and regulations.

Six required information fields on the CSS Data Entry Form (DEF) must be entered for each violation:

- Description (summary of regulatory section and the six digit violation code)
- Discovery (violation found by examiner or institution)
- Frequency
- Primary cause
- Intensity
- Disposition

*NOTE: These six elements **do not** have to be specifically detailed in each violation write-up.*

**VIOLATION  
WRITE-UPS  
(cont'd)**

**General  
Procedures  
(cont'd)**

For each violation, the combination of elements will assist examiners in determining the extent of the financial institution's deficiencies, if any, and the need for corrective action.

General Rules
<p>1. Detail applicable elements in each violation write-up:</p> <p><i>Refer to the heading "Violation Write-Ups, Six Elements in Violation Description" below for details to include in each write-up.</i></p>



### Six Elements in Violation Description

The following elements should be determined for each violation.

I. Summary of Regulatory Section and Associated Violation Code
<p>1. The summary of the regulatory section and associated violation code serve as a heading for the violation description and precedes the violation description.</p> <p>This information may be obtained from the CSS Violation Code Directory and can be obtained in the WordPerfect 6.1 automated ROE.</p> <p><i>NOTE: Regulatory provisions not yet included in the CSS Violation Code Directory, previously referred to as "Uncoded Violations," should be identified by the general code for the particular statute or regulation.</i></p> <p><i>Refer to the Compliance Statistical System Program Appendix of this manual for details on these codes and entering them into the DEF.</i></p>



II. Discovery (by examiner or financial institution)
<p><i>NOTE: It will be assumed that the violation was discovered by the examiner unless the violation description indicated that it was discovered by the financial institution.</i></p> <p>1. If audit and self-evaluation reports indicate that identified exceptions have been corrected by the financial institution prior to the beginning of the compliance examination, examiners should use discretion in determining whether or not to include these exceptions in the ROE.</p> <p><i>Refer to the Initial Examination Procedures section of this manual.</i></p>

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

In making this determination, consider the following:

- The proximity (in terms of time) between the audit and the examination
- The overall compliance posture of the financial institution
- The nature of the identified exceptions
- The circumstances surrounding the occurrence and correction of these exceptions

**Example of Violation Identified by Institution**

A financial institution determines that it has not been including inspection fees for construction loans as a finance charge, thereby understating the finance charge and the annual percentage rate, in violation of Regulation Z.

The compliance officer determines that the violations occurred during the six month tenure of a temporary loan department secretary and that 25 of the 63 construction loans made that year were affected. The financial institution conducted a file search and appropriately reimbursed affected customers.

A compliance examination commences six months after the inaccurate disclosures were corrected and no recurrence of the violations was identified. Additionally, the institution provided training for all loan department personnel. In this instance the examiner did not cite the violation in the ROE, but did comment on the financial institution's identification of the inaccurate disclosures and corrective actions on Page 1 and Page A.

**III. Description of the Frequency of the Violation**

*NOTE: The frequency of a violation indicates the extent of the occurrence of violations, of a particular type, identified during the examination or visitation. Violation comments regarding frequency will generally include the time period and nature of the documents examined.*

1. Unless apparent, the magnitude of the frequency should be clearly stated using one of the defined terms: random, pattern, or system-wide.
2. Clearly indicate if a previously identified pattern or practice remains unchanged since the previous examination.

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

Three categories have been established to describe violation frequency:

**RANDOM** – Random infractions are defined as isolated, infrequent, sporadic or irregular deficiencies.

Example of a Random Violation
A review of ten advertisements for mortgages disclosed two advertisements that did not include the required Equal Housing Lender Logo and Statement.

**PATTERN** – A volume of violations, stemming from a common cause, sufficient to indicate a breakdown in established procedures. Isolated, unrelated or accidental occurrences will not constitute a pattern or practice. Recurring, intentional, regular, usual, deliberate practices will almost always constitute a pattern or practice. The entire set of circumstances must be considered, at each institution, when assessing whether a pattern or practice is present.

A pattern of violations has many of the same elements as a system-wide violation, but it is more limited in scope and may be isolated to a particular office, department, or individual(s). If the failure to give the proper number of the right to rescind notices as described in the example noted under system-wide violations were restricted to one office, the frequency would be described as a pattern.

Example of a Pattern of Violations
Sixteen home improvement loans were reviewed at the downtown branch including twelve secured by the consumer's primary residence. Nine of the twelve secured home improvement loans lacked adequate flood insurance documentation. This represents a pattern of violation at the downtown branch. A less frequent pattern of violation was cited at the preceding compliance examination.

**SYSTEM-WIDE** – A system-wide violation results from established procedures or computational errors incorporated in the routine operations of a majority of the offices, departments, or employees of the financial institution.

A system-wide violation reflects a pattern of noncompliance with a specific law or regulation across most of an institution's applicable facilities and staff. The financial institution's act or omission needs to be consistent for a violation to be considered system-wide.

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

**Example of a System-wide Violation**

Three of four of the financial institution's offices provide only one copy of the notice of right to rescind rather than the two copies of the notices to each consumer entitled to rescind, as required by Section 226.23(b) of Regulation Z, due to misinterpretation.

A system-wide violation is not limited to a particular threshold number of violations or specific error rate. When the financial institution is required to perform a particular act or conduct a particular function and fails to do so, that omission should be considered a system-wide violation since it adversely affects broad categories of the public including potential loan applicants, the institution's existing customers, community organizations and other interested parties.

**Examples of System-wide Violations**

The onetime failure to prepare or retain the required HMDA Disclosure Statement, which is applicable to the institution as a whole, would be a system-wide violation since it adversely affects all parties (federal regulators, community organizations and individuals) with an interest in the institution's HMDA data.

The institution's failure to post the required Expedited Funds Availability Notice at stations where deposits are accepted may adversely affect both new and existing customers since many may be unaware absent the reminder that their deposit may be subject to an extended hold.

**IV. Primary Cause of the Violation**

1. Provide a full explanation of the primary cause for each violation using one of the terms defined below.

A detailed explanation is especially important for Substantive Violations, many of which may be subject to specific regulatory enforcement actions such as reimbursement or civil money penalties.

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

Six categories describe the primary cause of violations:

**INADVERTENT ERRORS**– Unintentional mistakes despite adequate resources, capabilities, and knowledge on the part of the financial institution.

**Inadvertent errors** are usually random in frequency, and acknowledge that an effective compliance program, administered by knowledgeable and well-trained personnel, may not prevent infrequent, isolated violations.

**UNFAMILIARITY**– Management of the financial institution has not taken steps to become adequately versed or acquainted with the requirements of the applicable regulation(s).

**Unfamiliarity** relates to the financial institution's compliance educational efforts. In this situation, management has not made sufficient effort to learn the applicable regulations or to keep current with regulatory changes. A key element in **Unfamiliarity** is the failure to recognize the financial institution's changing responsibilities.

**Example of Error Caused by Unfamiliarity**

Management was unaware of Section 226.19(b) of Regulation Z and offered a long-term variable rate residential mortgage product without providing the disclosures required by this section.

**MISINTERPRETATION**– While financial institution management has taken steps to become knowledgeable of and familiar with the laws and regulations, the applicable requirement(s) has been incorrectly comprehended or interpreted.

**Misinterpretation** differs from **Unfamiliarity** in that management has undertaken efforts to become aware of changes in consumer laws and regulations, but has misinterpreted the particular regulatory requirement or relied upon the erroneous interpretation of another (counsel, auditors, forms vendors, etc.).

**Example of Error Caused by Misinterpretation**

The financial institution incorrectly disclosed the presence of a demand feature on a consumer loan because management believed that the financial institution's contractual default clause was a demand feature.

**TRAINING** – The individual(s) or department responsible for compliance has

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

not been sufficiently advised or informed of the responsibilities, despite the existence of adequate policies and procedures.

Violations attributable to a lack of **Training** generally arise when the compliance instruction given employees is inadequate or is subsequently unmonitored.

Deficiencies in **Training** are often identified through interviews with affected employees.

**Example of Error Caused by Training**

A financial institution provides its lending officers with clear and accurate instructions on when an adverse action notice is required under Regulation B. A potential applicant telephones the financial institution to discuss obtaining a loan. The person answering the phone is a newly hired loan officer and has not been instructed in the institution's loan application procedures. The employee obtains the potential applicant's income and determines that it is insufficient to handle the debt requested. He advises the potential applicant that submitting a written application would be a "waste of time". The employee does not recognize that an adverse action notice is required for this telephone application.

**PROCEDURES**— Adequate internal operating procedures to ensure ongoing compliance have not been developed or implemented, despite the financial institution's awareness of the regulatory requirements.

Violations caused by inadequate **Procedures** result from a lack of effective policies and internal controls. Violations attributable to this cause occur frequently in financial institutions where officers or employees rely on informal, unwritten policies and are dependent on institutional memory.

**Example of Error**

A financial institution has extended five residential home-purchase loans in the previous 18 months, and has no defined residential loan procedures. This deficiency allows the institution to omit the Mortgage Servicing Transfer Disclosure required under Regulation X on an applicable transaction despite knowledge of the regulatory requirements.

The lack of identifiable procedures differentiates **Procedural** violations from **Training-related** violations. Since adequate procedures may be unwritten, examiners may need to combine review of written documentation with interviews of appropriate personnel to clarify distinctions.



**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

**WILLFUL NONCOMPLIANCE**– A blatant disregard for compliance with the applicable regulation despite the resources and capabilities of the financial institution's personnel.

To establish **Willful Noncompliance** the examiner must demonstrate that management lacked the willingness, as opposed to the ability, to comply with the applicable consumer laws and regulations. **Willful Noncompliance** will generally be restricted to Substantive and Other Significant violations.

Evidence of **Willful Noncompliance** customarily will include a pattern of violations substantially unchanged from a previous examination or visitation, an antagonistic or negative attitude toward compliance, and nonexistent or superficial changes to internal control procedures.

**Example of Error Caused by Willful Noncompliance**

Consecutive examinations determine that management continues to discount income derived from alimony and child support, regardless of the stability and probable continuity of the income, in violation of Section 202.6(b) of Regulation B.

Examiners may demonstrate **Willful Noncompliance** without the presence of a repeat violation if it can be established that management was knowledgeable of a regulatory requirement, but chose to act in contradiction of it.

**Example of Error**

An examiner determines a financial institution discourages applicants on a prohibited basis and evidence shows that the financial institution's personnel actively attempted to conceal this prohibited activity.

**V. Intensity (Severity) of the Violation**

1. Identify the proper violation category.

Violations fall into two general categories:

- Significant
- Other Violations

The intensity (severity) of the violation is determined by the examination report page on which it is listed.

**VIOLATION  
WRITE-UPS  
(cont'd)****Six Elements in  
Violation  
Description  
(cont'd)****SIGNIFICANT VIOLATIONS**

**Substantive Violations**– Violations of a specific law or regulation that individually or collectively:

- Impose immediate (current examination) supervisory requirements or corrective action on the financial institution
- For example: Discrimination on any of the prohibited bases.
- Have monetary repercussions on the financial institution or to identified consumer(s), such as TIL reimbursements
  - Are willful in nature
  - Significantly affect the availability or accuracy of publicly accessible data, such as significant incorrect HMDA LAR entries

**Other Significant Violations**– Violations that may be considered significant, depending on the circumstances in which they occur. They may be described as having one or more of the following characteristics:

- Violations that appeared in the Significant Violations section at the previous examination and are repeated in exactly the same manner at the current examination
- If the repeat violation is determined to be willful, it should be classified as substantive. Isolated repeat violations need not necessarily be considered significant.
- Numerous violations affecting one regulatory area indicating a breakdown in training, internal controls, audit procedures or management oversight of an area
  - Violations that result from a routine practice or that impact a large number of customers

**OTHER VIOLATIONS**

Other Violations are described as infrequent, sporadic or irregular violations that neither individually, nor collectively, represent serious concern for the financial institution, but require corrective action where appropriate.

- Violations which do not fit the description of Significant Violations should be included in this definition.

**VIOLATION  
WRITE-UPS  
(cont'd)**

*Refer* to the instructions for Significant Violations and Other Violations for further guidance on identifying the proper violation category.

**Six Elements in  
Violation  
Description  
(cont'd)**

VI. Disposition of Violations	
1.	Describe the disposition of violations using the categories below.

Two categories describe violation disposition:

**CORRECTIVE MEASURES IMPLEMENTED**– A violation cited during the examination that has been corrected through implementation of new or revised procedures initiated to correct the cited infraction or prevent its recurrence. This category is appropriate to use when a financial institution's management responds to an identified violation through specific actions expected to prevent the recurrence of the identified violation.

**OUTSTANDING VIOLATION**– A violation or cause of violation that remains uncorrected.

General Instructions	
1.	Advise the financial institution of compliance violations or problems as they are identified during the course of the examination.  <i>Refer</i> to Closing Management and Board Meetings Policy, Transmittal No. DCA-96-009, dated 1/31/96.
2.	Encourage management to promptly address violations and any underlying policy or program deficiencies.
3.	Include a description in the ROE of the scope, extent, and nature of corrective action taken or promised.  For example: <ul style="list-style-type: none"> <li>• Identified problem</li> <li>• Initiated corrective action</li> <li>• Implemented correction</li> <li>• Awaiting proof that subsequent transactions are correct</li> </ul>

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

**Example:** When an institution with deficient Truth in Savings initial account disclosures mails an accurate account disclosure to all consumers (and the examiner can confirm this), the violation should be cited with the corrective measures taken described. On the other hand, if management delays mailing the revised account disclosure until the next statement cycle mailing scheduled after the close of the examination, the violation should be cited with details of the promised corrective action.

4. Include in the ROE any recommendations of specific corrective action made by the financial institution's management.
5. Ensure through sampling and discussion with management that corrective action has been taken during the examination.
6. Evaluate the extent of corrective action needed. Factors to consider when evaluating the extent of corrective action include:
  - Impact of the violation on the financial institution or consumers
  - Intensity of the violation
  - Any monetary repercussions created by the violation and whether they have been rectified

Below are two examples of **Outstanding** violations:

**Example:** A financial institution whose Truth in Savings initial account disclosures are deficient seeks competitive bids from vendors before drafting a revised account disclosure and thereby delays corrective action until after the close of the examination. The violation would be coded as **Outstanding** since corrective action has not been effectively implemented.

**Example:** A financial institution's compliance officer determines during a compliance audit that an application fee on residential mortgages is only being collected from approved applicants and is not being properly reflected on disclosures as required under Regulation Z. The compliance officer determines that training was insufficient and initiates additional training that is effective in preventing new violations; however, the institution takes no action on outstanding loans. If a pattern can be established, the violation should be cited in the ROE as reimbursable with comments on the corrective action taken.

Generally, Regulation Z violations subject to reimbursement will be **Outstanding** at the close of the examination since the reimbursement request is generally made by the Regional Office.

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

Report of Examination
<p>For the full report format, the examiner would:</p> <p><u>Significant Violation Page</u></p> <ol style="list-style-type: none"> <li>Track all of the six elements on the Data Entry Form (DEF)</li> <li>Detail all the elements in the write-up, <b>except:</b> <ul style="list-style-type: none"> <li>Discovery: If the examiner does not specifically state that the financial institution discovered the violation, it would automatically default to the examiner</li> <li>Intensity: The intensity would be identified by the violation page or header used</li> <li>Disposition: If not specifically stated in the write-up, it is an automatic default to an outstanding violation</li> </ul> </li> </ol> <p><i>NOTE: Corrective Measures Implemented do not include management's promise to take action, but rather if the corrective action has been implemented. If a violation is inadvertent or "correction" unnecessary or impossible, no mention is necessary and the violation would default to outstanding.</i></p>
<p><u>Other Violation Page</u></p> <ol style="list-style-type: none"> <li>Track all of the six elements on the Data Entry Form (DEF)</li> <li>Detail all the elements in the write-up, <b>except:</b> <ul style="list-style-type: none"> <li>Description: Regulatory cite only</li> <li>Discovery: If the examiner does not specifically state that the financial institution discovered the violation, it would automatically default to the examiner</li> <li>Frequency: If not specifically mentioned, it would automatically default to random</li> <li>Intensity: Already identified by the page or header used</li> <li>Disposition: If not specifically stated in the write-up, it is an automatic default to an outstanding violation</li> </ul> </li> </ol>

**VIOLATION  
WRITE-UPS  
(cont'd)**

**Six Elements in  
Violation  
Description  
(cont'd)**

*NOTE: Corrective Measures Implemented do not include management's promise to take action, but rather if the corrective action has been implemented. If a violation is inadvertent or "correction" unnecessary or impossible, no mention is necessary and the violation would default to outstanding.*

Summary of Violations Page

For the Summary of Violations Pages which may not be included in the final ROE but provided to management, the examiner would:

1. Track all of the six elements on the Data Entry Form (DEF)
2. Detail all the elements in the write-up, **except:**
  - Discovery: If the examiner does not specifically state that the financial institution discovered the violation, it would automatically default to the examiner
  - Intensity: Already identified by the page or header used
  - Disposition: If not specifically stated in the write-up, it is an automatic default to an outstanding violation

*NOTE: Corrective Measures Implemented do not include management's promise to take action, but rather if the corrective action has been implemented. If a violation is inadvertent or "correction" unnecessary or impossible, no mention is necessary and the violation would default to outstanding.*

**SIGNIFICANT  
VIOLATIONS**

**Prepare Significant Violations (Page 2)**

**Categories of Violations**

There are three categories of violations cited in the Full Compliance Report of Examination. They are listed below in descending order of severity:

- Substantive
- Other Significant
- Other Violations

**SIGNIFICANT  
VIOLATIONS  
(cont'd)**

The first two categories, "Substantive" and "Other Significant," appear on the Significant Violations page(s). Guidance to determine where to list a particular Significant Violation is found below. "Other Violations" are listed on the separate Other Violations Page (Page 3).

**General Instructions**

1. Examiners must determine whether a particular violation is serious enough to warrant classification as a "Substantive" violation, or the less serious, but still important, "Other Significant" category.

**Substantive Violations – Definition**

Substantive violations are violations of a specific law or regulation that individually or collectively:

- Impose immediate (current examination) supervisory requirements or corrective action on the institution
- Have monetary repercussions on the financial institution or to identified consumer(s)
- Are willful in nature
- Significantly affect the availability or accuracy of publicly accessible data

Substantive Violations include but are not limited to all Truth in Lending reimbursable violations and any violations of the anti-discrimination provisions of the Equal Credit Opportunity and Fair Housing Acts.

**Other Significant Violations – Definition**

Other Significant Violations may be considered significant, depending on the circumstances in which they occur. They may be described as having one or more of the following characteristics:

- Violations that appeared in the Significant Violations section at the previous examination and are repeated in exactly the same manner at the current examination. If the repeat violation is determined to be willful, it should be classified as substantive. Isolated repeat violations need not necessarily be considered significant
- Numerous violations affecting one regulatory area indicating a breakdown in training, internal controls, audit procedures or management oversight for that area

**SIGNIFICANT  
VIOLATIONS  
(cont'd)**

- Violations that result from a routine practice or that impact a large number of customers

**"Substantive" or "Other Significant" Violation – Write-ups**

*NOTE: See general rules governing the drafting of violations descriptions in the preceding section, Violation Write-ups. In addition, the following rules apply to "Substantive" and "Other Significant" descriptions.*

1. List violations under each appropriate category heading ("Substantive" or "Other Significant"), in descending order of importance.

*NOTE: If there are no violations for a particular category, enter "None" under the heading.*

2. Give two or three examples for each violation.

**Exception:** If the violation involves one of the anti-discrimination provisions of the ECOA or the FHA, give names of all identified individuals.

3. Provide management's response to the violation.

- Give names and titles of individuals with whom violation(s) were discussed
- Specify any corrective action undertaken or promised
- If corrective action is promised, identify the time frame for action

**Special Rules for Reimbursable Truth in Lending Violation Descriptions**

1. Include Reimbursable Truth in Lending violations in the "Substantive Violations" category, under the separate heading, "Reimbursable Truth in Lending Violations".
2. For each Reimbursable Truth in Lending violation, provide the violation code and summary from the CSS Violation Code directory for both the specific section of Regulation Z involved and the applicable provision of the Truth in Lending Act.

*Refer to the CSS Codes Appendix in this manual.*

3. In the text of the violation write-up, supply the following information to support the presence of a "pattern or practice" for each type of reimbursable Truth in Lending violation.

- Type of loan



**SIGNIFICANT  
VIOLATIONS  
(cont'd)**

- Special characteristics or features, if any
  - Number of loans sampled with reimbursement violations
4. For violations involving both understated Annual Percentage Rates (APR) and Finance Charge (FC), identify the larger of the reimbursable amount.
  5. In addition to the above information, forward to the Regional Office the following documentation for each type of reimbursable violation cited (as applicable):
    - APR calculation printouts
    - TIL disclosures
    - Contract note
    - Commitment letter
    - HUD-1/1A Forms
    - Private mortgage insurance agreements
    - Interest rate indices
    - Trial balance, loan history, or payment record showing first payment and at least one subsequent payment
    - Itemization of amount financed (if separate)/Good Faith Estimate
    - Amortization schedule
    - Any other documentation supporting adjustments to the amount financed (for example, credit insurance application forms, etc.)

**Absence of "Substantive" or "Other Significant" Violations**

1. If no violations are listed under a particular category, enter "None" under the category heading.

*NOTE: If no "Substantive" or "Other Significant" violations are found, review the instructions for the Summary Compliance Report of Examination, Part VII, Section C, to determine if that abbreviated report format may be used.*

**SIGNIFICANT  
VIOLATIONS  
(cont'd)**

**Page Numbering**

The Significant Violations page(s) are numbered 2.1, 2.2, etc.

**TRUTH IN  
LENDING  
REIMBURSABLE  
VIOLATIONS  
SCHEDULES**

As part of the automated ROE, DCA has developed three reimbursable violation schedules to address the major loan types:

- Single Advance – Single Pay
- Single Advance – Installment Loan
- Construction – Single Advance - Single Pay  
– Single Advance - Multi Pay

Use the applicable reimbursement schedule whenever a pattern or practice of reimbursable Truth in Lending violations exist. Reimbursable Truth in Lending violations will be listed on the Significant Violations pages.

**Prepare TIL Reimbursable Violations Schedules**

1. Complete the applicable reimbursement schedule(s). Line-by-line instructions are provided below.

**Supporting Reimbursement Documentation**

2. Provide supporting documentation.

In addition to completing the appropriate reimbursement schedule, examiners must provide the Regional Office with the supporting documentation listed under Special Rules for Reimbursable Truth in Lending Violation descriptions in the portion of this section entitled "Significant Violations, Special Rules for Reimbursable Truth in Lending Violation Descriptions".

*NOTE: The ROE does not have to contain the supporting documentation to management. However, the examiner may wish to provide management with that information while at the institution during any discussion of reimbursable violations.*

**TRUTH IN  
LENDING  
REIMBURSABLE  
VIOLATIONS  
SCHEDULES  
(cont'd)**

<b>Page Numbering</b>	
The Truth in Lending Reimbursement Schedules are numbered 2.a.1, 2.a.2, etc.	
<b>Instructions for Completing Truth in Lending Reimbursement Schedules</b>	
The following pages contain line-by-line instructions for completing each reimbursable Truth in Lending violations schedule.	
<b>6-1. Single Advance – Single Pay Schedule (Page 2.a.x)</b>	
<u>Heading</u>	
Provide the following information where indicated:	
Cert#:	Delete "Cert#" as it appears on the schedule and replace it with institution's 5-digit certificate number
Borrower's Name:	Name of Loan Customer
Loan Number:	Trial balance loan identification number
<u>Line Items</u>	
Line 1.	<u>Loan Type</u> . Already completed. No entry needed.
Line 2.	<u>Origination Date</u> . Note date.
Line 3.	<u>Loan Amount</u> . Enter the original loan amount.
Line 4.	<u>Prepaid Finance Charge</u> . Enter the amount of any prepaid finance charge(s).
Line 5.	<u>Amount Financed</u> . Examiner's calculation of the amount financed (not necessarily same as on the Truth in Lending disclosure).
Line 6.	<u>Explanation of Adjustment to Amount Financed</u> . Examiner's rationale for adjusting the Amount Financed. If not applicable, insert "N/A".
Line 7.	<u>Total of Payments</u> . Correct total of payments calculated through use of the OCC APR Program. (Not necessarily same as on the Truth in Lending disclosure.)
Line 8.	<u>Term of Loan</u> . Term of the loan in days, months, etc.
Line 9.	<u>Disclosed APR</u> . APR disclosed on the latest Truth in Lending disclosure, provided on or before consummation.
Line 10.	<u>Calculated APR</u> . Correct APR calculated through use of the OCC APR Program, based upon terms of the loan contract.

**TRUTH IN  
LENDING  
REIMBURSABLE  
VIOLATIONS  
SCHEDULES  
(cont'd)**

- Line 11. Explanation of APR Understatement. Provide a brief explanation of the underlying cause(s) for the incorrect APR calculation.
- Line 12. Lump Sum Reimbursement as of Final Payment Date. Enter as a positive number the amount listed on the OCC APR Program Truth in Lending Reimbursement Documentation under "APR ADJUSTMENT AS OF FINAL PMT DATE" heading (For further guidance, see Question 6 of the Questions and Answers Regarding Joint Interagency Statement of Policy for Administrative Enforcement of the Truth in Lending Act ["Questions and Answers"] in the Truth in Lending Reimbursement Appendix of this manual). This number represents one payment option for the financial institution. Alternatively, the financial institution may calculate reimbursement as of the date of the adjustment (the present value of the lump sum reimbursement).
- Line 13. Disclosed Finance Charge. Finance charge disclosed on the latest Truth in Lending disclosure provided on or before consummation.
- Line 14. Calculated Fin. Charge. Correct Finance charge calculated through use of the OCC APR Program. (See response to Question 6 of the Questions and Answers in the Truth in Lending Reimbursement Appendix of this manual.)
- Line 15. Fin. Charge Adjustment. Enter as a positive number the amount given on the "Finance Charge Adjustment" listed on the OCC APR Program's Truth in Lending Reimbursement Documentation.
- Line 16. Explanation of Finance Charge Adjustment. Provide a brief explanation of the underlying cause(s) for the understated finance charge and violation.

**6-2. Single Advance – Installment Loan Schedule (Page 2.a.x)**

Heading

Cert#: Delete "Cert#" as it appears on the schedule and replace it with institution's 5-digit certificate number.

Borrower's Name: Name of Loan Customer.

Loan Number: Trial balance loan identification number.

Line Items

Line 1. Loan Type. Already completed. No entry needed.

Line 2. Origination Date. Note Date.

Line 3. Loan Amount. Enter the original loan amount.

**TRUTH IN  
LENDING  
REIMBURSABLE  
VIOLATIONS  
SCHEDULES  
(cont'd)**

- Line 4. Prepaid Finance Charge. Enter the amount of any prepaid finance charge(s).
- Line 5. Amount Financed. Examiner's calculation of the amount financed (Not necessarily same as on the Truth in Lending disclosure).
- Line 6. Explanation of Adjustment to Amount Financed. Examiner's rationale for adjusting the Amount Financed. If not applicable, insert "N/A."
- Line 7. Payment Schedule. Correct payment schedule determined by the examiner from the legal documents governing the transaction. (Not based upon information in the Truth in Lending disclosure.)
- Line 8. Days to First Payment. Number of calendar days to first payment. Taken from the OCC APR Program. Use "Fed Calendar" option in OCC APR Program to obtain number of days to first payment.
- Line 9. Disclosed APR. APR disclosed on the latest Truth in Lending disclosure provided on or before consummation.
- Line 10. Calculated APR. Correct APR calculated through OCC APR Program, based upon terms of the contract.
- Line 11. Explanation of APR Understatement. Provide a brief explanation of the underlying cause(s) for the incorrect APR calculation.
- Line 12. Lump Sum Reimbursement as of Final Payment Date. Enter as a positive number the amount listed on the OCC APR Program Truth in Lending Reimbursement Documentation under "APR ADJUSTMENT AS OF FINAL PMT DATE" heading. (See response to Question Number 6 of the Questions and Answers in the Truth in Lending Reimbursement Appendix of this manual.) This number does not represent a payment option for the financial institution.
- Line 13. Lump Sum Reimbursement.
- a) As of Payment #. Enter payment number used for OCC APR Program Reimbursement Calculation. The number of payments should correspond to the actual number of payments made on the loan up to the calculation date.
- b) Amount. Enter as a positive number the reimbursement amount found on the OCC APR Program Truth in Lending Reimbursement Documentation under "LUMP SUM METHOD (WITH NO FUTURE PAYMENT REDUCTIONS)." (See response to Question Number 6 of the Questions and Answers in the Truth in Lending Reimbursement Appendix of this manual.)

**TRUTH IN  
LENDING  
REIMBURSABLE  
VIOLATIONS  
SCHEDULES  
(cont'd)**

Line 14. Lump Sum-Payment Reduction.

a) As of Payment #. Enter the payment number used for the OCC APR Program Reimbursement Calculation. The number of payments should correspond to the actual number of payments made on the loan up to the calculation date.

b) Lump Sum Portion. Enter as a positive number the reimbursement amount found on the OCC APR Program Truth in Lending Reimbursement Documentation under "Lump Sum/Payment Reduction Method."

c) Reduced Payment Am. Enter the "Adjusted PMT" found on the OCC APR Program Truth in Lending Reimbursement Documentation.

d) # of Reduced Payments. Enter the number of regular payments remaining to amortize the loan (This number should be the difference between the last payment and the total number of payments made as reflected in item (a), above).

e) Odd Pmt Amount (if applicable). Enter the number found on the OCC APR Program Truth in Lending Reimbursement Documentation under the "Adjusted PMT" column. Odd payments are normal for balloon payment and many mortgage loans.

f) # of Odd Payments. Enter the corresponding number of odd payments associated with the odd payment amounts. (See response to Question Number 6 of the Questions and Answers in the Truth in Lending Reimbursement Appendix of this manual.)

Line 15. Disclosed Finance Charge. Enter the finance charge disclosed on latest Truth in Lending disclosure provided on or before consummation.

Line 16. Calculated Finance Charge. Correct Finance charge calculated through use of the OCC APR Program (See response to Question Number 6 of the Questions and Answers in the Truth in Lending Reimbursement Appendix of this manual.).

Line 17. Fin. Charge Adjustment. Enter as a positive number the amount from the "Finance Charge Adjustment" line found on the OCC APR Program Truth in Lending Reimbursement Documentation.

Line 18. Explanation of Finance Charge Adjustment. Provide a brief explanation of the underlying cause(s) for the understated finance charge.

**TRUTH IN  
LENDING  
REIMBURSABLE  
VIOLATIONS  
SCHEDULES  
(cont'd)**

**6-3. Construction Schedule (Page 2.a.x)**

Use this schedule for "Construction Only" loans. **Do not** use for construction-permanent loans.

Heading

Cert#: Delete "Cert#" as it appears on the schedule and replace it with institution's 5-digit certificate number

Borrower's Name: Name of Loan Customer

Loan Number: Trial balance loan identification number

Line Items

Line 1. Loan Type. Already completed. No entry needed.

Line 2. Origination Date. Note date.

Line 3. Days to First Payment. Number of calendar days to first payment. Taken from OCC APR Program. Use "Fed Calendar" option in OCC APR Program to obtain number of days to first payment.

Line 4. Commitment Amount. Enter the loan commitment amount.

Line 5. Prepaid Finance Charge. Enter the amount of any prepaid finance charge(s).

Line 6. Subsequently Paid FC. Enter finance charge(s) (other than interest) paid separately by the borrower after consummation.

Line 7. Simple Int. Rate. Enter simple interest rate for the construction phase.

Line 8. Interest Accrual Method. Enter the interest accrual method, (for example, whole months [with or without compounding] or actual days).

Line 9. Construction Phase Payment Schedule. Enter payment schedule during the construction phase (for example, no payments, interest-only monthly or quarterly payments, etc.).

Line 10. Est. Date Constr. End. Enter the anticipated construction phase end date.

Line 11. Disclosed APR. APR disclosed on the latest Truth in Lending disclosure provided on or before consummation.

Line 12. Calculated APR. Correct APR calculated through use of the OCC APR Program, based upon terms of the loan contract.

**TRUTH IN  
LENDING  
REIMBURSABLE  
VIOLATIONS  
SCHEDULES  
(cont'd)**

- Line 13. Explanation of APR Understatement. Provide a brief explanation of the underlying cause(s) for the incorrect APR calculation.
- Line 14. Lump Sum Reimbursement as of Final Payment Date. Enter as a positive number the amount found on the OCC APR Program Truth in Lending Reimbursement Documentation under "APR ADJUSTMENT AS OF FINAL PMT DATE". (See response to Question Number 6 of the Questions and Answers in the Truth in Lending Reimbursement Appendix of this manual.) This number represents one payment option for the financial institution. Alternatively, the financial institution may calculate reimbursement as of the date of the adjustment (the present value of the lump sum reimbursement).
- Line 15. Disclosed Finance Charge. Enter finance charge disclosed on latest Truth in Lending disclosure provided on or before consummation.
- Line 16. Calculated Fin. Charge. Enter correct finance charge calculated through use of the OCC APR Program. (See response to Question Number 6 of the Questions and Answers in the Truth in Lending Reimbursement Appendix of this manual.)
- Line 17. Fin. Charge Adjustment. Enter as a positive number the amount listed as the "Finance Charge Adjustment" on the OCC APR Program Truth in Lending Reimbursement Documentation.
- Line 18. Explanation of Finance Charge Understatement. Provide a brief explanation of the underlying cause(s) of the understated finance charge.



**OTHER  
VIOLATIONS**

**OTHER VIOLATIONS** are described as infrequent, sporadic or irregular violations that neither individually, nor collectively, represent serious concern for the financial institution, but require corrective action where appropriate. Violations which do not fit the description of Significant violations should be included in this definition.

<b>Prepare Other Violations (Page 3)</b>	
<b>Description of Violations</b>	
<p>Unlike the violation descriptions on the Significant Violations page which are written in block paragraph form, the violation information on the Other Violations page is presented under two columns.</p> <p>The two columns are:</p> <ul style="list-style-type: none"> <li>• Identification of Transaction or Event</li> <li>• Section and Description of Violation</li> </ul>	
<b>Identification of Transaction or Event Column</b>	
<ol style="list-style-type: none"> <li>Under the "Identification of Transaction or Event" column, provide, as a heading, the name of the law or regulation in question.  For example: <ul style="list-style-type: none"> <li>• Truth in Lending</li> <li>• Fair Credit Reporting</li> <li>• Advertisement of Membership</li> </ul> </li> <li>Provide some brief identifying characteristics of the transaction or event, such as: <ul style="list-style-type: none"> <li>• Name of consumer</li> <li>• Amount of loan</li> <li>• Date originated</li> <li>• Date of adverse action notice</li> </ul> </li> <li>If the violation relates to an advertisement, include: <ul style="list-style-type: none"> <li>• Date of advertisement</li> <li>• Where published or broadcasted</li> </ul> </li> </ol>	

**OTHER  
VIOLATIONS  
(cont'd)**

**Section and Description of Violation Column**

4. In the "Section and Description" column, provide the following information about the violation:
- Section of the law or regulation violated
  - Brief description of the violation
  - Frequency of the violation
  - Cause
  - Disposition
  - CSS violation code
  - Discovery (whether the violation was found by the financial institution, for example, by its auditors, or the examiner)
- Refer to the "Violation Write-Ups" portion of this section for details of how to prepare a violation write-up.*

**Page Numbering**

The Other Violations page(s) are numbered 3.1, 3.2, etc.

**COMMUNITY  
REINVESTMENT  
ACT**

**Prepare CRA Page (Page 4)**

1. Use the Community Reinvestment Act (CRA) page to discuss sensitive or confidential matters that are:
- Inappropriate to include in the CRA Performance Evaluation
  - Important, but not significant enough to include on the Page 1, Examiner's Comment and Conclusions

*NOTE: When all information concerning CRA performance can be addressed in the CRA Performance Evaluation and the Page 1, Examiner's Comments and Conclusions, **do not** use the Community Reinvestment Act page.*

**✓TIP:** The purpose and use of this optional CRA page is not impacted by the type of institution examined or the applicability of the old or Revised CRA.

**COMMUNITY  
REINVESTMENT  
ACT  
(cont'd)**

**Sensitive and Confidential Information**

1. Include on this page confidential or sensitive information that **should not be released to the public in the CRA Performance Evaluation.**

**For example:**

- Opinions or unverified information obtained from a community contact
- Information relative to a consumer complaint alleging discriminatory practices
- Specific borrower names and loan amounts
- Technical violations of anti-discriminatory laws and regulations
- Details regarding informal action (Board Resolution, Memorandum of Understanding) or formal enforcement action (a Cease and Desist Order enforcement action issued pursuant to Section 8 of the Federal Deposit Insurance Act) that are not a matter of public record and which may restrict the financial institution's ability to extend credit
- Anticipated or threatened litigation
- The financial institution's composite CAMEL rating from its previous safety and soundness examination

2. Below are some model comments which address some of the above information:

- For institutions that meet the definition of "small bank" (or for large banks that "opt-in" early):

**Example:**

Under the **Lending in Assessment Area** criteria in the Performance Evaluation, the financial institution is commended for its commitment to lending to local nonprofit organizations for the development of low- and moderate-income housing. The Anytown Community Development Corporation received six loans, 1% under prime rate, totaling \$457,000 during 19xx for this purpose.

*NOTE: Although specific organizations and loan terms should not be included in the institution's Performance Evaluations, this information should be generalized and included in the Performance Evaluation to support the rating.*

**COMMUNITY  
REINVESTMENT  
ACT  
(cont'd)****Example:**

As discussed under **Description of Institution** the financial institution has fiscal constraints that have affected its ability to meet community credit needs. The institution's last safety and soundness examination resulted in a composite CAMEL rating of "3" and a Memorandum of Understanding between the institution and FDIC Regional Director restricting the institution's asset growth.

- For those institutions that do not meet the definition of a small bank, and do not opt to be evaluated under the revised CRA regulation prior to the mandatory July 1, 1997 implementation date, examples of sensitive or confidential information should focus on performance rather than process

Although process oriented areas such as ascertainment, board involvement, and marketing remain part of the CRA examination procedures until July 1, 1997, they should only be discussed when actual lending performance is of concern.

Below is an example of how process-oriented information may be presented on the CRA page.

**Example:**

Assessment Factor I in the Performance Evaluation details a 60% decrease in loans to low- and moderate-income borrowers in the City of Anytown between 19xx and 19xx. Assessment Factor A indicates that the institution implemented a temporary policy in mid-19xx that prohibits its officers from attending, or being associated with, any city non-profit organization, in order to focus on the institution's financial problems. The institution's President, Joseph Webb, orally indicated to examiners that he plans on making this policy permanent. Examiners informed Mr. Webb of the impact that the reduction in credit ascertainment efforts appears to have, and will continue to have, on the institution's lending performance, and consequently its overall CRA performance.

**Constructive and Critical Recommendations**Constructive Recommendations

Constructive recommendations are those that address the manner in which deficiencies, as identified on the Examiner's Comments and Conclusions page, Page 1, may be remedied.

**COMMUNITY  
REINVESTMENT  
ACT  
(cont'd)**

1. Use constructive recommendations to provide guidance and advice to a financial institution.

Constructive recommendations may include, for example, suggestions to improve the institution's method of responding to complaints.

Constructive recommendations are suggestions, not requirements. The institution's failure to follow these recommendations will have no adverse consequences upon its future CRA ratings. Such comments should appear on the CRA page or Page 1.

Critical Recommendations

2. Critical recommendations address serious CRA deficiencies, and should appear on the Examiner's Comments and Conclusions page, Page 1.

Failure to address the underlying deficiency or implement the critical recommendation may have a profound adverse impact on the institution's CRA rating.

3. Note in the ROE the name and title of the officer with whom these recommendations were discussed.

For example, assume, based upon the demographics of the institution's assessment area and other performance context information, that the institution's distribution of loans to individuals of different income levels is poor. Comments addressing this deficiency should appear on Page 1. Below is an example.

**Example:**

The institution's distribution of loans, by borrower income, favors high income individuals. For all loans extended in 19xx, less than 1% were extended to borrowers with incomes less than 80% of area median income. Aggregate HMDA data suggests that there is loan demand from low- and moderate-income residents, as 32% of reportable HMDA loans in the same year were extended to low- and moderate-income residents.

A general recommendation to diversify loan dispersion among income categories would also be appropriate for Page 1. Below is a sample comment.

**Example:**

The institution's high down payment requirements and fee structure, as detailed on Page 4, appear to preclude low- and moderate-income residents from applying for any of the institution's mortgage loan products.

**COMMUNITY  
REINVESTMENT  
ACT  
(cont'd)**

The examiner may further explain how low down payment mortgage programs work, or how private mortgage guaranty insurance provides for lower down payments.

*NOTE: CRA Examinations for Wholesale and Limited-Purpose financial institutions will require a different format which will be addressed in a future manual update.*

**Page Numbering**

The Community Reinvestment Act page(s) should be appropriately numbered. If there are pages 2 and 3, the CRA pages would be 4.1, 4.2, etc. If there is no page 3, the pages would be 3.1, 3.2, etc.

**SUPERVISORY  
SECTION**

The Supervisory Section (Page A) is the confidential section of the examination report, and is made available only to the FDIC's Regional and Washington Offices and other banking regulators. The purpose of the Supervisory Section (Page A) is to supply general supervisory information, and to provide:

- Confidential or controversial information to the Regional and Washington Offices
- Information to succeeding examiners on the supervision and examination of the institution

Discuss only confidential or controversial information inappropriate for discussion in the open section of the examination report.

*NOTE: Do not repeat information previously provided in the open section of the report unless it is necessary to give a context for the comments made in the closed section.*

**Prepare Supervisory Section (Page A)**

**General Information Portion**

1. Enter the following information where indicated. If information is unavailable or not applicable, enter "N/A."

General

- Certificate number of financial institution

**SUPERVISORY  
SECTION  
(cont'd)**

- Name of financial institution
- City/town where financial institution is located
- State where financial institution is located
- Total assets of financial institution (rounded to the nearest thousand)
- FDIC Region
- FDIC (DCA) Field Office
- Number of financial institution offices
- Offices examined
- Date of current examination (Date examiners entered institution to begin on-site portion of the Compliance Examination)
- Date examination started (Same as above, but include hour of arrival)
- Date examination completed (Enter both date and hour)
- Date of last compliance examination
- Compliance ratings from current examination (component and composite)
- Compliance ratings from previous examination (component and composite)
- CRA ratings from current examination

**Large Bank Procedures (through 6/30/97):**

- Outstanding
- Satisfactory
- Needs to Improve
- Substantial Noncompliance

For banks examined under all procedures except the large bank procedures, describe the CRA Performance Levels, as applicable, under the CRA Performance Levels (refer to Bank of Anytown Report) heading discussed below. Examples follow for the various procedures.

**Small Bank Procedures:**

- |                            |  |
|----------------------------|--|
| -- <i>Composite Rating</i> | Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance |
| - Loan-to-deposit ratio    | Exceeds, Meets, or Does Not Meet Standards                             |

- |                                    |  |
|------------------------------------|--|
| - Assessment area(s) concentration | Exceeds, Meets, or Does Not Meet Standards |
|------------------------------------|--|

**SUPERVISORY  
SECTION  
(cont'd)**

- Geographic distribution of loans Exceeds, Meets, or Does Not Meet Standards
- Borrower's profile Exceeds, Meets, or Does Not Meet Standards
- Response to Complaints Exceeds, Meets, Does Not Meet Standards, or No Complaints Received
- Investments and Services Considered\* or N/A

\*Note: Either Investments or Services, or both, may be reviewed. No rating is assigned for Investments and Services, however, they are "considered" to the extent that they may increase a "Satisfactory" rating to an "Outstanding" rating. Also, comment whether the institution asked to be considered for an "Outstanding" rating, whether Investments and Services were considered, and identify the examination procedures used (such as small bank examination procedures, etc.)

**Large Retail Institution Procedures (beginning 7/1/97 or those opting in early)**

- *Composite Rating* Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance
- *Lending Test* Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
  - Lending activity Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
  - Assessment area(s) concentration Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
  - Geographic distributions of loans Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
  - Borrower's profile Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
  - Responsiveness to credit needs of highly economically disadvantaged geographies and low-income persons, small businesses Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
  - Community development lending activities Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
  - Product innovation Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
- *Service Test* Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance

- Accessibility of delivery systems Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
- Changes in branch locations Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance



**SUPERVISORY  
SECTION  
(cont'd)**

-Reasonableness of business hours and services in meeting assessment area(s) needs	Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
-Community development services	Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
-- <i>Investment Test</i>	Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance
-Investment and grant activity	Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
-Responsiveness to credit and community development needs	Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance
-Community development initiatives	Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, Substantial Noncompliance

**Wholesale and Limited-Purpose Procedures:**

-- <i>Community Development Test</i>	Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance
-Investment, loan, and service activity	Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance
-Investment, loan, and service initiatives	Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance
-Responsiveness to community development needs	Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance

**Strategic Plan Procedures:**

-- <i>Composite Rating</i>	Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance
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- CRA ratings from previous examination (component and composite)

**Working Hours (By Columns)**

- Name of Examiner-in-Charge and other examination staff
- Grade level of each member of the examination staff

- Hours spent by each member of the examination staff working on the examination both on-site at the financial institution (IN) and off-site (OUT)
- Total hours spent by each member of the examination staff on the examination
- Total combined hours of **all** examination staff

**SUPERVISORY  
SECTION  
(cont'd)**

- On-site at the financial institution (IN)
- Off-site (OUT)
- At the financial institution (IN) and off-site (OUT) combined

**Comment Sub-Section of Supervisory Section**

1. Provide the following, as applicable, in the Comment sub-section of the Supervisory Section.

CRA Performance Levels

- Describe the test(s) rating(s), the component performance levels, and the overall composite rating for the examination procedures utilized at this examination
- Identify which CRA examination procedures were used (for example, small bank procedures)
- Provide CRA component ratings
- Indicate whether the financial institution requested to be considered for an "Outstanding" rating
- If an "Outstanding" CRA rating was granted, indicate whether investments and services were reviewed

*NOTE: The topical headings used below are for organizational purposes only and do not represent any order of significance.*

Management and Organizational Structure

- Names of key personnel
- Significant management changes
- Attitude and willingness to correct identified deficiencies
- Financial institution's relationship with any holding company, affiliate or subsidiary

Confidential or Controversial Information

- Cause of violations, particularly if attributable to identified person(s)
- Board meeting minutes relating to violations
- Management or loan committee meeting minutes or other discussions of policies or violations

**SUPERVISORY  
SECTION  
(cont'd)**

- Unusual or special circumstances encountered

Restitution

- If restitution is required for Truth in Lending Regulation Z violations or for Truth in Savings, Equal Credit Opportunity, Fair Housing Act, supply the following information:
  - Estimated number of accounts, by type or the number of customers affected. For loans, include the number of accounts currently outstanding and the number paid off since the practice began or since the last examination
  - When more than one type of account is subject to reimbursement, provide the estimated total number of accounts and the estimated total reimbursement. Provide the basis for estimates
- If a bank has made restitution for Truth in Lending violations since the last compliance examination, state the number of accounts and the total dollar amount reimbursed. Provide a summary comment on Page 1 or 1.a.1 concerning any incorrect reimbursements

Enforcement Actions

- If a formal or informal enforcement action has been recommended, state the basis for recommendation
- If the financial institution is rated a "3" for Compliance or "Needs to Improve" for CRA and a Board Resolution or a Memorandum of Understanding has not been recommended, explain why
- If the financial institution is rated a "4" for Compliance for the first time, and a Cease and Desist Order or Civil Money Penalties were not recommended, explain why
- If a Cease and Desist Order or Civil Money Penalties are recommended, provide the names and home addresses of the board of directors/trustees

Pending Litigation/Allegations of Discrimination

- Any pending litigation related to consumer protection/civil rights matters
- Any indication of possible discrimination from sources outside the compliance examination (opinions voiced by community contacts, ongoing or threatened litigation, etc.)

Consumer Complaint Resolution

**SUPERVISORY  
SECTION  
(cont'd)**

- Adequacy of consumer complaint resolution (include complaints sent directly to the financial institution or received through the FDIC)

Community Reinvestment Act

- Indicate community contact interviews conducted during the course of the examination (name, address, telephone number of organization)
- Confidential or sensitive information that would be inappropriate to disclose in the institution's CRA Performance Evaluation or the open portion of the ROE

**Example:** Unsubstantiated or unverifiable critical comments from a community contact.

*NOTE: Information obtained from a community contact may, at times, be permissibly disclosed in the institution's Performance Evaluation, the Examiner's Comments and Conclusions Page, or the Community Reinvestment Page. This determination is one which must be made by the examiner.*

Fair Lending

- Include a scope comment for the Fair Lending procedures performed during the examination. The comment should include:
  - The examiner's hypothesis
  - The identity of the target and control groups
  - The number of loan files reviewed
  - The conclusion based on the procedures performed

Hours and Other General Examination Issues

- If a noncommissioned examiner acted as Examiner-in-Charge, state that fact

**SUPERVISORY  
SECTION  
(cont'd)**

- Explain any differences in excess of 25% between estimated and actual examination hours

**Example:** Extensive on-site review of consumer allegations of discrimination that failed to produce any evidence of unlawful discrimination. Identify tasks performed and provide recommendations for subsequent examinations or visits.

- Indicate whether the institution prefers compliance examinations conducted independently, or concurrent with:
  - FDIC safety and soundness examinations
  - State compliance examination
  - Provide name and title of responding officer
- Provide helpful information for future examinations, for example, description of accommodations, hours of operation, location of records, etc

**Page Numbering**

The Supervisory Section page(s) are numbered A.1, A.2, etc.



**FDIC LAW,  
REGULATIONS,  
& RELATED  
ACTS**

**Applicable Rules**

None

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**Advisory  
Opinions**

None

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**Statements of  
Policy**

None

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**DCA  
MEMORANDA**

Compliance Statistical System: Violation Code Directory, Transmittal No. DCA-96-025, dated 3/18/96

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**FINANCIAL  
INSTITUTION  
LETTERS (FIL)**

None

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**OTHER**

CSS Program Instructions, effective 3/18/96

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